

ANDOVER BOARD OF HEALTH

Minutes

January 12, 2009, 6 P.M.
1st Floor Conference Room
36 Bartlet Street

The Board of Health meeting was called to order at 6:06 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **December 8, 2008**

Motion by Ms. Kruse, seconded by Ms. Martin to approve the Minutes of the Meeting of December 8, 2008. Unanimous Approval.

II. Appointments & Hearings

- N/A

III. Discussion

- **Outdoor Seating for Restaurants – Possible Smoking Ban** – The Board discussed whether smoking should be banned at outdoor seating areas. There were three options the Board discussed if they decided to ban smoking outside: 1) amending the Bylaw to include outdoor areas, 2) adopting a local regulation, or 3) asking the Board of Selectmen to add the regulation to the Outdoor Seating Regulations. The Board wondered if they had the right to ban smoking in the open air. The Board discussed that people would be subjected to the smoke if they wanted to enjoy a meal outside. However, people would have the choice of eating inside the restaurant to avoid the smoke. Mr. Carbone stated that there are a couple of restaurants in Andover that have outdoor seating on their private property and he has not received any complaints concerning outdoor smoking. The Board then discussed having a Hearing with residents and restaurant owners to get their point of view on the subject. Ms. Martin suggested we do research and/or benchmarking to see what the surrounding communities have decided to do, and then get a proposal ready for the 2010 Town Meeting. Mr. Carbone stated that he would check with Ron Beauregard, Director of the Healthy Communities Tobacco Control Program, and other tobacco resources to get their opinions.
- **Outdoor Hydronic Heaters – Possible Rescinding of Moratorium** - Ms. Martin stated that the Mass. Department of Environmental Protection (MDEP) now has comprehensive regulations in place to control the emissions and placement of the units.

Motion by Dr. Miller, seconded by Ms. Martin to rescind the moratorium of March 12, 2007. Ms. Kruse requested further discussion before approval.

Ms. Kruse wanted clarification on what the Board of Health was in charge of as far as complaints and enforcement of fines. Mr. Carbone explained that there are requirements for the accepted types of fuel that can be burned and if a complaint is received we would enforce per the enforcement provisions as specified in 310 CMR 7.26(52) which is part of the nuisance regulations. When we enforce, as any other regulation, then the monetary penalty could be applied. The permit would be issued by the Building Division when they fill out the Building Permit and then the Health staff would have to look at the permit application to verify that the unit is one of the approved units. The list of approved units is available on line. Ms. Kruse was also concerned about the effect of secondhand smoke on the surrounding community. There was concern when a unit was set up in Tewksbury and there was a lot of smoke arising from the unit. However, there were no regulations in place at the time, so that shouldn't be an issue unless an unapproved fuel is used.

The state had originally proposed a two-tier set of regulations where the first tier would have less rigid standards until the technology developed over time. However, after research on the matter was completed, they decide they would enforce the second tier standards which are stricter. The MDEP looks at the use of the science behind their regulations, so Mr. Carbone felt comfortable with the regulations as written.

With the motion to rescind the moratorium of March 12, 2007, Ms. Kruse asked for a vote. All in favor, Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kruse, Aye. Unanimous approval.

IV. Old Business

- **Adopt Sewer Regulations** – Mr. Carbone informed the Board that the new Sewer Regulations are now ready to be put into effect. Mr. Carbone is looking to adopt the new regulations at this evening's meeting with an effective date of March 1, 2009. After the new regulations are adopted, the Board would no longer have to approve all sewer connections; only special cases that require a special permit or a variance. To complete the process, Mr. Carbone will place a notice in the newspaper and file with the State DEP for approval. Mr. Carbone will also prepare a fact sheet for the Engineers and Drain Layers, and set up educational meetings with them to discuss the new regulations.

Motion by Ms. Kruse, seconded by Ms. Martin to adopt the new Andover Board of Health Rules and Regulations for the Design, Construction, and Use of Sanitary Sewer. Unanimous Approval.

- **2 Carriage Hill Road** – Mr. Carbone informed the Board that the Magistrate's Hearing is scheduled for January 13, 2009 and that he has not had any communication from the defendant.

- **27 Kirkland Drive** - Mr. Carbone informed the Board that the defendants did not show up for the Magistrate's hearing on December 30, 2008 because of medical issues. A summons was issued to have them appear on January 22, 2009. Mr. Carbone explained that there was an unpermitted dumpster on the property, and that the homeowners are not putting trash out on a weekly basis. The additional problem is that one or more of the residents are hoarders, which is a very complicated issue to deal with. Mr. Carbone will update the Board after the Hearing on January 22, 2009.
- **Renewal Update - (Not on Agenda)** - Mr. Carbone informed the Board that most of the renewals have been completed. There are three pools that have not filed paperwork for the newly required swimming pool drain/grate covers under the new Federal Law, Virginia Graeme Baker Pool and Spa Safety Act. Some of the pools are older and will have to retrofit the new drain/grate cover. A letter from the pool company is required to meet this standard before the Pool or Whirlpool Permit may be issued.
- **Part-Time Grant Funded MRC Coordinator Duties (Not on Agenda)** – Mr. Carbone clarified that the duties of the new MRC Coordinator, David Nichols, will be to help recruit volunteers and coordinate training for the seven participating communities.
- **Salt Shed Update (Not on Agenda)** – The Board discussed some of the other towns in the area that have also been dealing with the issues caused by salt sheds in their area. The Town of Boxford has recently succeeded in getting a commitment via a court ORDER to move their salt shed by June 30, 2009 because many of their private wells were becoming contaminated. While MHD is using less salt on the highways, there is still no decrease in the salt in the drinking water, however, and salt will be seen in the drinking water and groundwater for years.

V. Definitive Subdivision Plans

- N/A

VI. Plan Review

A. D.W.R.P. Variances/Local Upgrade Approvals –

- N/A

B. B.S.I.P. – Ratify

- N/A

C. S.S.A.P – Recommend Approval:

Ms. Kruse moved to approve, seconded by Ms. Martin. The Board voted unanimously to approve the following SSAP:

129	Summer Street	TM	4	TL	54
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D. S.S.U.P.– Recommend Approval:

Ms. Kruse moved to approve, seconded by Ms. Martin. The Board voted unanimously to approve the following SSUP's:

28	Argilla Road	TM	93	TL	4C
11	Bateson Drive	TM	91	TL	1K

E. B.S.R.P. – Recommend Approval:

Ms. Kruse moved to approve, seconded by Ms. Martin. The Board voted unanimously to approve the following BSRP:

40	Dale Street	TM	138	TL	20
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VII. Staff Reports

A. Director's Report:

- **Tabletop Exercise** – Mr. Carbone explained that the Health Staff attended a tabletop exercise at the Police Station which dealt with the creation and running of an EDS (Emergency Dispensing Site) from start to finish. There was a lot of good feedback from the participants and another exercise will be scheduled for this spring.
- **Sign Flu Clinic Volunteer Thank You Notes** – The Board of Health members signed the thank you letter to be sent to the Flu Clinic volunteers.
- **Important Dates:**
 - January 14 through 20 – Director's Vacation
 - January 21 – FBWAC Meeting – 7 p.m.
 - February 3, 4, & 5 – Director to Pandemic Planning Class
 - February 9 - Board of Health Meeting, 6 p.m.
 - February 19 – DEP/MHOA Seminar in Wilmington
 - March 9 - BOH Meeting – 6 p.m.

B. Nurses' Reports for December, 2008 – The Nurses' Reports were for informational purposes only.

C. **Inspectors' Reports for December, 2008** – The Inspectors' Reports were for informational purposes only.

VIII. Board Member Reports

- **Town Survey Results** – Ms. Martin commended the Board of Health and the Health Staff on the survey results. The Board of Health was rated the highest for its services, and the Health Staff had the highest rating in the CD&P Department.
- **18 Dale Street Complaint Letter (in Correspondence)** – Ms. Kruse asked Mr. Carbone about the lengthy letter that Mr. Carbone wrote in response to the complaints brought up by the homeowner. Mr. Carbone stated whenever there is an inspection, a response is required. Most of the homeowner's issues have to be dealt with on her own without the help of the Health Division.
- **Public Health Week** – Ms. Kruse asked if a topic had been picked for the Public Health Week lecture. Mr. Carbone stated that Lyme Disease may be the topic again this year because the number of cases goes up every year. The statistics gathered only take into account the cases that go through the lab and doesn't count the number of cases not reported.

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kruse to adjourn at 7:06 p.m. Unanimous approval.